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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,904	01/17/2002	Gregory Lavoie	40027.007	9123

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DYKEMA GOSSETT PLLC
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EXAMINER

BENSON, WALTER

ART UNIT PAPER NUMBER

2858

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/052,904

Applicant(s)
Lavoie et al.

Examiner
Walter Benson

Art Unit
2858



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 17, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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DETAILED ACTION

1. Claims 1-28 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designating the United States was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 14-15, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Clunn (US Patent No. 6,426,632 B1 and Clunn hereinafter).

4. As to claims 1, 14, and 24, Clunn discloses a circuit breaker apparatus and method comprising:

trip circuitry (col. 7, lines 41-43);

a microprocessor (806, Fig. 8; col. 7, lines 45-47);

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a test signal generator incorporated in the circuit breaker and method for providing test signals to the trip circuitry under control of the microprocessor (902, Fig. 9; col. 8, lines 24-31).

5. As to claims 2, 15, and 25, Clunn discloses a circuit breaker apparatus and method comprising:

wherein said test signal generator comprises either a current source, a voltage source or both for generating said test signals (col. 8, lines 43-50).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6, 10, 16, 18, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clunn in view of Saito et al. (US Patent No. 6,301,674 B1 and Saito hereinafter).

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Although the apparatus and method disclosed by Clunn shows substantial features of the claimed invention (discussed above), it fails to disclose:

a standard interface connected to the microprocessor for connecting to a corresponding standard interface including IEEE 1394, RS 232, etc. on a general purpose computing device.

Nonetheless, these features are well known in the art and would have been an obvious modification of the apparatus and method disclosed by Clunn, as evidenced by Saito.

In an analogous art, Saito discloses a power consumption measuring system having:

a standard interface connected to the microprocessor for connecting to a corresponding standard interface including IEEE 1394, RS 232, etc. on a general purpose computing device (Fig. 27; col. 4, lines 48-61).

Given the teaching of Saito, a person having ordinary skill in the art at the time of the invention would have readily recognized the desirability and advantages of modifying Clunn by employing the well known or conventional features of a network such as disclosed by Saito for constructing a network of electric devices which are conventionally used separately, and managing and controlling these devices by standard interfaces.

8. Claims 7-9, 17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clunn in view of Fraisse (US Patent No. 5,220,479 and Fraisse hereinafter).

Although the apparatus and method disclosed by Clunn shows substantial features of the claimed invention (discussed above), it fails to disclose:

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a wireless interface connected to the microprocessor [claims 7 and 27];

where the wireless interface is a radio frequency transceiver [claim 8];

where the wireless interface is an infra-red transceiver.[claim 9].

Nonetheless, these features are well known in the art and would have been an obvious modification of the apparatus and method disclosed by Clunn, as evidenced by Fraisse.

In an analogous art, Fraisse discloses an electronic trip device controlled by a microprocessor having:

a wireless interface connected to the microprocessor [claims 7, 17 and 27] (22, Fig. 1; col. 4, lines 48-61) for transferring data;

where the wireless interface is a radio frequency transceiver [claim 8] (48, 50 Fig 1) to provide portability;

where the wireless interface is an infra-red transceiver.[claim 9] (col. 4, line 59).

Given the teaching of Fraisse, a person having ordinary skill in the art at the time of the invention would have readily recognized the desirability and advantages of modifying Clunn by employing the well known or conventional features of remote control such as disclosed by Fraisse for providing indications relating to the type of device and connectivity links and for the purposes discussed above.

9. Claims 11-13, 19-21, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clung in view of Murphy (US Patent No. 4,958,252 and Murphy hereinafter).

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Although the apparatus and method disclosed by Clung shows substantial features of the claimed invention (discussed above), it fails to disclose:

at least one switch in a connection between the trip circuitry and the test signal generator, the switch being controlled by said microprocessor, the switch being open when the trip circuitry is not being tested so as to prevent erroneous test signals from causing a response by the trip circuitry [claims 11, 19, 21, 22];

a receptacle forming a gap in a connection between the trip circuitry and the test signal generator; and a key for insertion in the receptacle to bridge the gap allowing communication between the trip circuitry and the test signal generator [claims 12, 20, 23];

where the key is a rating plug [claim 13].

Nonetheless, these features are well known in the art and would have been an obvious modification of the apparatus and method disclosed by Clung, as evidenced by Murphy.

In an analogous art, Murphy discloses an electronic trip device controlled by a microprocessor having:

at least one switch in a connection between the trip circuitry and the test signal generator, the switch being controlled by said microprocessor, the switch being open when the trip circuitry is not being tested so as to prevent erroneous test signals from causing a response by the trip circuitry [claims 11, 19, 21, 22] (col. 4, lines 57-59) to get maximum service out of the circuit breaker;

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a receptacle forming a gap in a connection between the trip circuitry and the test signal generator; and a key for insertion in the receptacle to bridge the gap allowing communication between the trip circuitry and the test signal generator [claims 12, 20,23] (col. 5, lines 60-64) to provide rating of the circuit breaker;

where the key is a rating plug [claim 13] (col. 3, lines 5-7).

Given the teaching of Murphy, a person having ordinary skill in the art at the time of the invention would have readily recognized the desirability and advantages of modifying Clung by employing the well known or conventional features of removable rating plugs such as disclosed by Murphy for providing a reference for the microcomputer for the frame rating of the circuit breaker for maximum continuous current and for the purposes discussed above.

Prior Art Made of Record

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Stroth et al. (US Patent No. 6,466,029 B2) discloses a power line testing device having a test generator that is adopted to connect to a plurality of branch circuits;

B. Dollar, II et al. (US Patent No. 6,545,479 B1) discloses a portable tester for circuit breakers;

C. Burton et al. (US Patent No. 4,814, 712) discloses a test kit for circuit breakers.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter Benson whose telephone number is (703) 306-4525. The examiner can normally be reached on Monday to Thursday and alternate Fridays from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le, can be reached on (703) 308-0750. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9318; Before-Final or (703) 872-9319; After-Final.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

Walter Benson *W3*
Patent Examiner

June 16, 2003

N. Le
N. Le
Supervisory Patent Examiner
Technology Center 2800